

REMARKS

I. Summary of the Office Action

The Final Office Action mailed December 24, 2008 (“the Office Action”) made the following objections and/or rejections, each of which is addressed in more detail below:

Claims 17-18 and 20-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004853 (“Ram”) in view of U.S. Patent Application Publication No. 2002/0130868 (“Smith”) and further in view of U.S. Patent No. 7,103,556 (“Del Rey”).

Claim 19 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ram in view of Smith, further in view of Del Rey, and further in view of U.S. Patent No. 6,625,583 (“Silverman”).

Claims 22-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ram in view of Smith, further in view of Del Rey, and further in view of U.S. Patent Application Publication No. 2002/0091679 (“Wright”).

Claims 1-11, 15-16, and 24-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ram in view of Silverman, further in view of Del Rey, further in view of Wright, and further in view of Smith.

II. Interview Request

The Applicant hereby expressly requests an interview with the Examiner in advance of preparation of an Office Action in reply to the present Response. The Applicant’s representative Adam Faier may be reached at 312-698-6003.

III. Related Applications

The Applicant understands that the Examiner reviews the claims and prosecution history of related applications as they contain common subject matter. To this end, the Applicant reminds the Examiner that the present application is related through a common claim of priority to U.S. Patent Application Serial Nos. 10/260,644 and 11/415,854, which are before a different Examiner (Tran) in a different art unit (3694); the former is pending and the latter is abandoned.

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests examination of the instant claims according to the claim language in light of the prior art without importing statements made by the Applicant in the prosecution of any related application.

IV. Status of the Claims

The present application includes claims 1-11 and 15-26. Claims 12-14 and 27 were previously cancelled. By this Response, claims 1-11 and 15-26 have been cancelled and new claims 28-39 have been added. Claims 1-11 and 15-26 were cancelled without prejudice and disclaimer in order to expedite prosecution and the Applicant expressly reserves the right to pursue the subject matter of the cancelled claims in a continuing application. Support for these amendments can be found throughout the application and therefore no new matter is added in this response.

V. Claim Rejections – 35 U.S.C. 103

Claims 1-11 and 15-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over various combinations of Ram, Smith, Del Rey, Silverman, and/or Wright. As noted above, these claims have been cancelled and consequently these rejections are now moot. However, in the interest of expediting prosecution, the Applicant will address shortcomings of the proposed combinations with respect to the newly added claims.

Ram, Del Rey, Silverman, and Wright have been previously discussed and for brevity that discussion will not be repeated here. The Applicant notes that the Office Action at page 4, with respect to examined independent claims 17 and 18, stated that “Ram does not show displaying the annotation to the at least one location corresponding to the at least one price level along the price axis in the market information display region associated with the first tradeable object.” Similar statements are made at pages 7 and 12 with respect to the other examined independent claims.

Based at least on this, with respect to the new claims, the Applicant respectfully submits that, similarly, none of Ram, Del Rey, Silverman, and Wright, teaches or suggests a definition

for an annotation including an annotation price level and annotation information specified by a user or displaying the annotation by displaying the annotation information along the price axis at the annotation price level.

The Office Action turned to Smith to cure these deficiencies of the examined claims. The Applicant respectfully submits that Smith does not cure the deficiencies of Ram, Del Rey, Silverman, and Wright, identified above for the newly-added claims for at least the following reasons.

Smith generally relates to an interface for inputting and viewing information related to financial instruments using graphical presentations, multimedia, and communication facilities integrated into one display, as stated in paragraph [0003]. As summarized in paragraph [0012], Smith includes a graphical display system having a server for receiving and processing financial instrument data and a client computing device connected to the server for concurrently displaying to a user processed financial instrument data in graphical form, a multi-media streaming video presentation, and interactive communications associated with the financial instruments. Smith provides for allowing analysts to dynamically enter comments and recommendations as text for view in the graphic presentation of financial data. Such text and data may be accessed simultaneously in real-time or near-real-time by multiple users.

As discussed in paragraph [0126], human analysts are employed in Smith to annotate the financial data. Alternatively, automated computer systems, may be used to automatically detect preset conditions in the financial data. As explained in paragraph [0127], preferably an analyst views the financial data provided to users but has additional functionality, not provided to the users, to annotate the financial data through a screen such as the one in Figure 10. The annotation may be incorporated into the chart or grid on the screen, for example, using GUI functions. In certain embodiments, the annotation may change colors, such as blink, in order to alert users, such as investors, of the dynamically changing situation of the displayed financial information. Thus, the Applicant respectfully submits that it is clear that annotations in Smith are created by analysts and provided to users, such as investors. That is, while analysts create the annotations, the annotations are intended to be used by users other than the analysts.

Paragraph [0129] of Smith notes that the analyst screens shown in Figures 10-15 are capable of being actuated by the analyst at any point on the graph and grid line including the chart of financial data. Alternatively, the analyst may select the point of annotation as being on

the axis of the graph/chart; for example, the time and date indices on the horizontal axis, or price, volume, rate, and/or ratio indices on the vertical axis, as shown in Figure 10. The Applicant respectfully submits that Figure 10 of Smith does not show an annotation along a price axis. Rather, the Applicant respectfully submits that these statements in Smith should be interpreted to mean that an annotation can be associated with a point in the graph that is not part of the displayed financial data but is rather a point at a particular time/date and/or a particular price/volume/rate/ratio.

As further support, the Applicant draws the Examiner's attention to paragraph [0131] which states that "for analyst-inputted textual annotations associated with ... a specified axis point on the chart, each annotation remains associated with the ... specified point, even as the older data 'drops off' the chart as time passes by." Smith gives an example of this in paragraph [0131] stating "as shown in FIGS. 11-12, an analyst may have previously entered a first annotation such as 'Ranger support marks ...', with the first commentary indexed to the financial data at, for example, the date around Oct. 11, 1999...." Thus, as can be seen in Figures 11 and 12 of Smith, the example annotation, which is associated with the specified point on the date axis (11-10-1999), can be seen to "move" to the left as time passes by. This annotation is clearly not along the date axis, but rather, as submitted above, is simply associated with a point on the graph that is not part of the displayed financial data but rather is associated with a point at a particular date. As noted in paragraph [0133], Figures 13-14 show the chart updated with new financial data and the date index 11-10-1999 has "extend[ed] leftward off the chart, such that the leftmost date index becomes 12-10-1999, [and] the first commentary is removed from the screen; that is, the text of the first commentary appears to scroll leftward out of the viewable chart window of the predetermined time duration...." The Applicant respectfully submits that similar behavior would be seen for an annotation in Smith associated with a point on the graph that is not part of the displayed financial data but rather is associated with a point at a particular price level. That is, as the chart updates, that annotation would move to the left off of the chart.

Therefore, in view of the above discussion, the Applicant respectfully submits that Smith does not teach or suggest a definition for an annotation including an annotation price level and annotation information specified by a user. Rather, as discussed above, the annotations of Smith are created by analysts for use by users receiving the data from the analysts. The

Applicant respectfully submits that the analysts in Smith have no need for the annotations but are instead providing the analysis for the users' benefit.

In addition, the Applicant respectfully submits that Smith does not teach or suggest **displaying the annotation by displaying the annotation information along the price axis at the annotation price level**. Rather, as discussed above, Smith does not display the annotation along a price axis, but instead allows the annotation to be associated with a point on the graph associated with a price on the price axis. Additionally, as discussed above, the Applicant respectfully submits that as time passes such an annotation would move off of the display, further evidence that the annotation is not displayed along the price axis.

Accordingly, without conceding the propriety of the asserted combination, the Applicant respectfully submits that, even in view of the knowledge of one of ordinary skill in the art, the proposed combinations of Ram, Smith, Del Rey, Silverman, and/or Wright do not teach or suggest the entirety of the features recited in the pending claims.

Independent claim 28 recites "receiving via the computing device a definition for an annotation, wherein the definition includes an annotation price level and annotation information **specified by a user**" and "displaying via the computing device the annotation by **displaying the annotation information along the price axis at the annotation price level**." Independent claim 39 recites similar features. The Applicant respectfully submits that the cited art does not teach or suggest at least these features. Thus, the proposed combinations of Ram, Smith, Del Rey, Silverman, and/or Wright do not teach or suggest the entirety of the features recited in the pending claims. Therefore, the Applicant respectfully submits that independent claims 28 and 39 should be allowable over the cited art of record for at least the reasons discussed above.

With respect to claims 29-38, these claims depend from independent claim 28. The Applicant respectfully submits that claims 29-38 should be allowed for at least the reason that they each depend from an allowable claim.

VI. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited art that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge

such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All of the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Adam Faier at 312-698-6003, or the undersigned attorney or agent.

Respectfully submitted,
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